

### Claim Rejections

The Examiner has rejected claims 1 and 2 under 35 U.S.C. 103(a) as being unpatentable over Magnusson in view of Walker. The Examiner purports that Magnusson chose a removable foam topper pad 40 that extends across the mattress pad and onto the border wall, and can be placed under the pillow top. However, Applicant urges the Examiner to look more closely at Figure 3, Figure 2, and Figure 1C, as well as column 8, lines 6-32. Looking at Figure 1C, it is clear that liner 34 does not extend all the way to the exterior of the side walls. Looking at Figure 3, pad 40 does not extend even as far as the liner 34 does. Therefore, Magnusson does not disclose a topper pad which extends from the exterior of one side wall to the exterior of the other side wall. Further support for this is found in column 8, lines 12-17, where Magnusson teaches that "it is to be understood that the liner 34 need not fully cover the center cavity. That is, liner 34 may only cover the interface between a border and any core within the center cavity ...". Such an embodiment offers adherent advantages in that it permits accessibility to the center cavity. Magnusson further teaches that the high density foam pad 40 may be provided and be held between the liner and the pillow top, thereby preventing the foam pad 40 from extending past the expanse of the liner 34 towards the exteriors of the side walls. It can thus be seen that Magnusson teaches away from extending a pad to the exterior of the side walls. Claim 2 depends from claim 1.

The Examiner has rejected claims 3-5, 10-13, and 18-21 as being unpatentable over Magnusson in view of Walker and further in view of Boyd. Applicant asserts that claim 1 is in condition for allowance, as indicated above, and therefore claims 3-5, which depend from claim 1, are also in condition for allowance. Furthermore, the base pad taught by the present invention is designed to make up for discrepancies in elevation between two sides of a mattress that arise from differences in the inflation levels of air bladders located on each side. None of the prior art references listed by the Examiner directly addresses or even suggests or identifies this problem. The base pad taught by Boyd, whether considered to be the bottom portion which forms cavity 19 or the lower halves 17C, 17E, 15C and 13C of the insert, are not constructed and arranged of different thicknesses in order to compensate for various elevations. Rather, they are of uniform thickness, but varying density, to give the user a wider selection of mattress firmness levels.

Applicant acknowledges that the Examiner has indicated that claims 6-9, 14-17, and 22-25 are objected to as being dependent upon a rejected base claim but would be allowable if

rewritten in independent form, including all the limitations of the base claim and any intervening claims. Accordingly, Applicant has added new claims 26-36.

Respectfully submitted,

By

  
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